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S.B. CIVIL TRANSFER PETITION NO.7/2006.
Major Ramendra Dutt Sharma & Anr.
Vs.
Kshitiz Gaur

Date of Order :: 05.12.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Rajendra Charan, for the petitioners.
None present for the respondent

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This transfer petition under Section 24 of the Code of Civil Procedure has been submitted with a prayer that a petition filed by the respondent under Section 10 of the Guardians & Wards Act, 1890 before the Family Court at Ajmer (Case No.01/2006) may be transferred to the Family Court at Udaipur. It appears that the said case at Family Court, Ajmer was filed by the respondent, father of the children, seeking their guardianship and custody.

Now an application has been sent by the petitioner No.2, mother of the children, stating that she had voluntarily transferred the absolute custody of the children to her husband (respondent herein) and her father-in-law; and that all the matters pertaining to Section 125 Cr.P.C. and Section 13 Hindu Marriage Act etc. have already been disposed of by the Family Court at Udaipur and no case is pending before the said Family Court at Udaipur. It has been

stated in the application that absolute custody of the children having been handed over by the petitioner No.2 to the respondent and his family, her stand may be treated as withdrawn.

Learned counsel Mr. Rajendra Charan appearing for the petitioners points out that in the cognate matter pertaining to the same dispute about custody of children, a Habeas Corpus petition (D.B. Habeas Corpus Petition No.592/2006: Kshitiz Gaur Vs. State & Ors.) filed by the respondent-husband, it has been give out before the Division Bench of this court that the parties have settled their disputes and in fact they are living together and the said Habeas Corpus petition has been dismissed by the Division Bench of this Court on 22.08.2006 as infructuous.

In view of the developments stated by the mother of the children in her application dated 29.06.2006 and so also in view of the facts stated by the learned counsel appearing for the petitioners, it is obvious that no cause survives; and there does not appear any reason to proceed with this transfer petition any further that is practically rendered infructuous.

The transfer petition is, therefore, dismissed as infructuous.

(DINESH MAHESHWARI), J.

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